

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007 IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18<sup>th</sup> day of June, two thousand fourteen.

PRESENT: BARRINGTON D. PARKER,  
DENNY CHIN,  
RAYMOND J. LOHIER, JR.,  
*Circuit Judges.*

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KATHERINE MARTINEZ,  
*Plaintiff-Appellant,*

v.

13-2967

ROBERT M. O'LEARY, Assistant Commissioner,  
Trials & Litigation Division for the New York City  
Department of Correction, JOHN ANTONELLI,  
Deputy Commissioner for the New York City  
Department of Correction, ALAN VENGERSKY,  
Deputy Commissioner, Department of Personnel  
for the Department of Correction, LARRY DAVIS,

Chief of the Department for the New York City  
Department of Correction, DORA SCHRIRO,  
Commissioner for the New York City Department  
of Correction,

*Defendants-Appellees.*

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FOR PLAINTIFF-APPELLANT: DAMOND J. CARTER, Carter & Associate  
Attorneys, New York, New York.

FOR DEFENDANTS-APPELLEES: SCOTT N. SHORR, Senior Counsel (Francis F.  
Caputo, Assistant Corporation Counsel, *on the*  
*brief*), for Zachary W. Carter, Corporation  
Counsel of the City of New York, New York,  
New York.

Appeal from the United States District Court for the Eastern District of  
New York (Vitaliano, J.).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED,  
ADJUDGED, AND DECREED** that the appeal is **DISMISSED**.

Plaintiff-appellant Katherine Martinez appeals from the judgment of the  
district court entered July 3, 2013, dismissing her claims against the New York City  
Department of Correction and granting summary judgment to defendants-appellees.  
This matter arises from the termination of Martinez's employment as a New York City  
correction officer. We assume the parties' familiarity with the facts, procedural history,  
and issues for review.

We dismiss the appeal for lack of appellate jurisdiction because the notice of appeal was not filed in a timely manner.

"Filing deadlines are mandatory and jurisdictional." *Johnson v. Univ. of Rochester Med. Ctr.*, 642 F.3d 121, 124 (2d Cir. 2011). If an appellant does not file a timely notice of appeal, "this Court lacks jurisdiction to hear the appeal." *Silivanch v. Celebrity Cruises, Inc.*, 333 F.3d 355, 363 (2d Cir. 2003).

Here, the judgment was entered Wednesday, July 3, 2013. Therefore, the notice of appeal had to be filed no later than Friday, August 2, 2013. *See* Fed. R. App. P. 4(a)(1) (requiring appellant in civil case to file notice of appeal within 30 days after entry of judgment or order being appealed). In fact, the notice of appeal was not filed until Saturday, August 3, 2013 -- 31 days after the district court judgment was entered.

Federal Rule of Appellate Procedure 4(a)(1)(A) provides three exceptions to the 30-day requirement. *See* Fed. R. App. P. 4(a)(1)(A) (requiring filing within 30 days "except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c)"). None of these exceptions applies here.

Accordingly, because the notice of appeal was untimely filed, this appeal is **DISMISSED** for lack of appellate jurisdiction.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk